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7 Principal, California Water Research

8 **BEFORE THE**
9 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

10 HEARING IN THE MATTER OF
11 CALIFORNIA DEPARTMENT OF WATER
12 RESOURCES AND UNITED STATES
13 BUREAU OF RECLAMATION
14 REQUEST FOR A CHANGE IN POINT OF
15 DIVERSION FOR CALIFORNIA WATER
16 FIX

**DEIRDRE DES JARDINS' COMMENTS
RE: ISSUES APPROPRIATELY
ADDRESSED IN BRIEFS AT THE
CONCLUSION OF THE PART 1
REBUTTAL CASES AND
SUR-REBUTTAL PRESENTATIONS**

17 Protestant Deirdre Des Jardins, principal at California Water Research (“California Water
18 Research”) provides the following comments on briefs at the conclusion of Part 1.

19 The issues in this hearing are complex, and the testimony is also detailed and complex. Postponing
20 briefs on the issues by six months or more will not improve the Board members’ memory. For this
21 reason, California Water Research requests that the Hearing Officers allow briefs on the issues
22 addressed in Part 1 at the close of Part 1. These should include issues addressed in the Petitioners’
23 testimony and arguments in Part 1, as well as the issues assigned to Part 1 in the

24 However, these briefs should not be considered “closing briefs,” because of the delay by the
25 Petitioners in providing all of the information required for the Petition under Water Code §§ 1701.1
26 and 1701.2. The Hearing Officers ruled in the February 11, 2016 Hearing Ruling that the information
27 required under Title 23 Cal. Code. Regs. § 794 must be provided in Petitioners’ Cases in Chief:

1 The petitioners' cases in chief must, to the extent possible, contain the information required by
2 section 794 of our regulations in a succinct and easily identifiable format. The other parties will
3 then be able to more accurately assess whether the proposed changes would cause injury.
(February 11, 2016 Hearing ruling, p. 7)

4 Many protestants have presented evidence in their cases in chief that the Petitioners did not
5 provide sufficient information in their cases in chief to assess whether the proposed changes would cause
6 injury. California Water Research respectfully notes that the Hearing Officers' deadline for Petitioners to
7 provide information required under Title 23 § 794 has lapsed. The issue of completeness of information
8 required under Title 23 § 794 should therefore be considered before rebuttal, and if a time extension is
9 given for Petitioners to present the information on rebuttal, briefs on the adequacy of the information
10 provided in support of the Petition should be allowed at the conclusion of rebuttal and sur-rebuttal.

11 In addition, because the "appropriate Delta flow regulations" in Water Code § 85086 (c) (2)
12 have not been considered and testimony has not been heard, and the ESA Section 7 Consultation is
13 not complete, it is not possible for protestants in Part 1 to fully consider or address the impacts on
14 their water rights. For the above reason, closing briefs for protestants in Part 1 cannot be submitted
15 until after the close of Part 2 and consideration of "appropriate Delta flow criteria." Under Water
16 Code § 85086 (c) (2.) However, in-hearing briefs on issues addressed in Part 1 of the hearing will be
17 timely and should be accepted.

18 Sincerely,

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22 Deirdre Des Jardins
23 Principal, California Water Research
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2 **STATEMENT OF SERVICE**

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4 **CALIFORNIA WATERFIX PETITION HEARING**
5 **Department of Water Resources and U.S. Bureau of Reclamation**
6 **(Petitioners)**

7 I hereby certify that I have this day submitted to the State Water Resources
8 Control Board and caused a true and correct copy of the following document(s):

9 **Submission of DDJ/CWR Case in Chief**
10 **Final Exhibit Identification Index**

11 to be served **by Electronic Mail** (email) in parts due to server limitations, upon the
12 parties listed in Table 1 of the **Current Service List** for the California WaterFix Petition
13 Hearing, dated November 15, 2016, posted by the State Water Resources Control
14 Board at
15 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml

16 I certify that the foregoing is true and correct and that this document was
17 executed on January 31, 2017.

18 Signature:



19 Name: Deirdre Des Jardins
20 Title: Principal, California Water Research

21 Party/Affiliation:
22 Deirdre Des Jardins

23 Address:
24 145 Beel Dr
25 Santa Cruz, California 95060